

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/281/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX 1 KOLKATA
VS
M/S VENUS GOODS AND SUPPLY PRIVATE LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : January 03, 2025.

Appearance :
Mr. Aryak Dutt, Adv.
Mr. Soumen Bhattacharya, Adv.
...for appellant

The Court :- This appeal has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act), challenging the order passed by the Income Tax Appellate Tribunal "A" Bench Kolkata (the Tribunal) in ITA/971/Kol/2023 for the assessment year 2012-13. There is a delay of 120 days in filing the appeal. The respondent has been served and none appears for respondent. As the delay has been properly explained the same is condoned. The application is allowed.

The revenue has raised the following substantial questions of law for consideration :

"1. Whether the Learned ITAT has committed substantial error in law by allowing the appeal of the assessee only on the basis that there was no

evidence of service of notice under section 148 and 143[2] of the Income Tax Act, 1961, hence assessment was bad in law and it is quashed ?

2. Whether the Learned ITAT has committed substantial error in law by not considering that the assessee filed appeal after receiving copy of assessment order but the assessee denied the service of notice under section 148 and 143[2] of the Income Tax Act, 1961 ?

3. Whether the Learned ITAT has committed substantial error in law by not remanding the matter back to the file of the AO to prove the identity, genuineness and creditworthiness of the transaction ?

Two questions which fall for consideration in this appeal are, firstly, whether the assessing officer at Calcutta had territorial jurisdiction over the assessee and initiating the reassessment proceeding and the second question is whether notice under Section 148 of the Act was issued and served on the assessee in the manner provided under Section 282 of the Act. On the first issue the learned Advocate on facts found that the assessee had shifted its registered office to Chandigarh in the year 2014 and from the assessment year 2014-15 onwards the assessee has been filing their returns in Chandigarh and they have been assessed by the jurisdictional assessing officer. Therefore, the Tribunal found that assessing officer at Calcutta had no jurisdiction. Thus, issues having been examined by the Tribunal and after having noted shifting of the office was done by the Regional Director after calling for objection from stakeholders apart from the fact that assessee has been filing income tax returns in Chandigarh from the assessment year 2014-15, the learned Tribunal

accepted the contention of the assessee. We are fully in agreement with the conclusion arrived at by the Tribunal in this regard. The second aspect is whether the notice has been sent under Section 148 was being served in the manner known to law. The Tribunal had gone in to the facts and found that there is no evidence on the file that assessee had knowledge and access to the email sent by the assessing officer or had knowledge of reopening of the assessment.

Thus, having been decided after examining the facts we find no grounds to interfere with the findings rendered by the learned Tribunal in this regard.

Thus, we find no question of law much less substantial question of law arises for consideration in this appeal.

Accordingly, the appeal fails and dismissed.

Consequently, the application, GA/1/2024 stands closed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)